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SUBJECT: THE CZECH CONSTITUTION

REF: FBIS VIENNA AU, SERIAL NO. AU2412060192 (NOTAL)

11. SUMMARY: THE CZECH REPUBLIC (CR) CONSTITUTION (FULL TEXT REFTEL), WHICH WILL TAKE EFFECT JANUARY 1, IS EXPLICITLY PART OF THE CR'S EFFORT TO PROJECT ITSELF RAPIDLY AND FULLY INTO THE "FAMILY OF EUROPEAN AND WORLD DEMOCRACIES." THE FUNDAMENTAL CONSTITUENT UNIT IS NOT THE CZECH PEOPLE AS A GROUP, BUT RATHER THE INDIVIDUAL CITIZEN OF THE CZECH REPUBLIC, WHOSE HUMAN AND CIVIL RIGHTS ARE ABSOLUTELY GUARANTEED AND PROTECTED BY AN INDEPENDENT JUDICIARY, INCLUDING A CONSTITUTIONAL COURT AND SUPREME COURT. THE CONSTITUTION GUARANTEES THE PROTECTION OF MINORITY VIEWPOINTS, BUT DOES NOT INCLUDE THE PRINCIPLE THAT NATIONAL OR ETHNIC MINORITIES HAVE SPECIAL RIGHTS BY VIRTUE OF THEIR NATIONAL OR ETHNIC DISTINCTIVENESS.

12. THE INDEPENDENT CZECH REPUBLIC WILL BE A PARLIAMENTARY DEMOCRACY, WITH A BICAMERAL LEGISLATURE (CHAMBER OF DEPUTIES AND SENATE). THE PRIME MINISTER, HIS DEPUTIES, AND OTHER MINISTERS ARE RESPONSIBLE TO THE CHAMBER OF DEPUTIES. A MAJOR FUNCTION OF THE SENATE IS TO ENSURE CONTINUITY WHEN THE CHAMBER OF DEPUTIES CANNOT FULFILL ITS RESPONSIBILITIES; OTHERWISE, IT IS FAR LESS POWERFUL THAN THE CHAMBER. THE PRESIDENT OF THE REPUBLIC IS ELECTED BY BOTH CHAMBERS OF PARLIAMENT, AND EXERCISES POWERS SUBSTANTIALLY GREATER THAN THOSE OF THE GERMAN PRESIDENT, BUT LESS THAN THOSE OF THE PRESIDENT OF FRANCE. IN ADDITION TO THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES, THE CONSTITUTION ESTABLISHES A SUPREME INSPECTION OFFICE (SOMEWHAT COMPARABLE TO THE GAO) AND THE CZECH NATIONAL BANK. THE CONSTITUTION ALSO PROVIDES FOR WHAT IS TERMED "TERRITORIAL SELF-ADMINISTRATION" AT THE LEVEL OF MUNICIPALITIES AND OF REGIONS OR LANDS, BUT DOES NOT SIGNIFICANTLY INCREASE MUNICIPAL OR REGIONAL AUTONOMY. END SUMMARY.

#### BASIC PRINCIPLES

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13. ACCORDING TO THE PREAMBLE, IT IS THE "CITIZENS OF THE CZECH REPUBLIC IN BOHEMIA, MORAVIA, AND SILESIA" WHO ADOPT THE CONSTITUTION, THROUGH THEIR FREELY ELECTED REPRESENTATIVES. THE PREAMBLE AND CHAPTER ONE, "BASIC PROVISIONS," REFER AT SEVERAL POINTS TO THE CR AS A "STATE OF LAWS", BASED ON THE EQUALITY OF ALL CITIZENS AND RESPECT FOR THE PRINCIPLES OF HUMAN DIGNITY, FREEDOM, AND HUMAN AND CIVIL RIGHTS. INTERNATIONAL ACCORDS ON HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS TO WHICH THE CR HAS COMMITTED ITSELF ARE BINDING AND TAKE PRECEDENCE OVER NATIONAL LAW, AND THE POST-VELVET-REVOLUTION CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS IS DEFINED AS PART OF THE "CONSTITUTIONAL ORDER OF THE CZECH REPUBLIC." THE CONSTITUTION FORBIDS ANY CHANGES IN THE ESSENTIAL ATTRIBUTES OF THE CR AS A DEMOCRATIC STATE OF LAWS, AND FORBIDS THE INTERPRETATION OF LEGAL NORMS IN SUCH A WAY AS TO THREATEN THE

## FOUNDATIONS OF THE DEMOCRATIC STATE.

¶4. ALL STATE POWER DERIVES FROM THE PEOPLE, AND THE POWER OF THE STATE IS DEFINED AS SERVING ALL CITIZENS. THE POLITICAL SYSTEM IS BASED ON FREE COMPETITION OF POLITICAL PARTIES, WHICH MUST RESPECT FUNDAMENTAL DEMOCRATIC PRINCIPLES AND REJECT FORCE AS A MEANS OF ADVANCING THEIR INTERESTS. WHILE THE WILL OF THE MAJORITY, EXPRESSED THROUGH THE FREE BALLOT, IS THE BASIS OF POLITICAL DECISIONS, THE CONSTITUTION STATES EXPLICITLY: "DECISIONS BY THE MAJORITY PROVIDE FOR THE PROTECTION OF MINORITIES."

### THE LEGISLATURE

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¶5. THE CONSTITUTION PROVIDES FOR A BICAMERAL LEGISLATURE: A 200-MEMBER CHAMBER OF DEPUTIES (SUCCESSOR TO THE CZECH NATIONAL COUNCIL) AND AN 81-MEMBER SENATE. THE CHAMBER OF DEPUTIES, BY FAR THE MORE POWERFUL OF THE TWO HOUSES OF PARLIAMENT, IS ELECTED EVERY FOUR YEARS, UNDER A SYSTEM OF PROPORTIONAL REPRESENTATION. ELECTIONS TO THE SENATE WILL TAKE PLACE EVERY TWO YEARS, WITH ONE THIRD OF THE SEATS BEING FILLED EACH TIME. (THE TERM FOR SENATORS IS SIX YEARS.) SENATORS WILL BE ELECTED FROM SINGLE-MEMBER DISTRICTS. WHILE DEPUTIES NEED ONLY BE TWENTY-ONE YEARS OLD, SENATORS MUST BE AT LEAST FORTY.

¶6. THOUGH SIMILAR IN THEIR ARRAY OF OFFICERS, COMMITTEE STRUCTURES, AND THE IMMUNITIES OF THEIR MEMBERS, THE TWO HOUSES OF PARLIAMENT HAVE SOME RATHER DIFFERENT FUNCTIONS. THE GOVERNMENT IS RESPONSIBLE ONLY TO THE CHAMBER OF DEPUTIES, AND ONLY THE CHAMBER CAN APPROVE THE BUDGET AND THE FINAL YEAR-END ACCOUNTING. ON THE OTHER HAND, THE PRESIDENT OF THE REPUBLIC CAN DISSOLVE THE CHAMBER OF DEPUTIES UNDER CAREFULLY DEFINED CONDITIONS OF LEGISLATIVE GRIDLOCK. (SEE PARA 13.) WHEN THE CHAMBER OF DEPUTIES IS DISSOLVED, THE SENATE STEPS IN AND CAN APPROVE LEGISLATIVE MEASURES PROPOSED BY THE GOVERNMENT, OTHER THAN CONSTITUTIONAL LAWS, THE STATE BUDGET, ELECTION LAWS, OR INTERNATIONAL AGREEMENTS ON HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, WHICH HAVE THE FORCE OF CONSTITUTIONAL LAW. (IN ORDER TO RETAIN ITS VALIDITY, HOWEVER, A MEASURE PASSED BY THE SENATE MUST BE CONFIRMED BY THE CHAMBER WHEN IT MEETS AGAIN.)

¶7. AGREEMENT BETWEEN THE CHAMBER OF DEPUTIES AND THE SENATE IS REQUIRED TO DECLARE WAR OR APPROVE THE STATIONING OF FOREIGN TROOPS ON CZECH SOIL. (A SIMPLE MAJORITY OF ALL DEPUTIES AND ALL SENATORS IS REQUIRED.) CONSTITUTIONAL LAWS AND INTERNATIONAL AGREEMENTS REQUIRE 3/5 OF ALL DEPUTIES AND 3/5 OF ALL SENATORS PRESENT FOR THE GIVEN VOTE. REGULAR LAWS ONLY REQUIRE SIMPLE MAJORITIES OF ALL DEPUTIES OR SENATORS PRESENT FOR THE VOTE.

¶8. IN FACT, WHEN IT COMES TO REGULAR LAWS, THE CHAMBER OF DEPUTIES IS FIRMLY IN THE DRIVER'S SEAT. ALL DRAFT LAWS ARE INTRODUCED IN THE CHAMBER. IF THE CHAMBER APPROVES A LAW, IT PASSES IT TO THE SENATE. IF THE SENATE REJECTS A LAW PASSED IN THE CHAMBER, THE LAW GOES INTO EFFECT IF THE CHAMBER APPROVES IT AGAIN BY A SIMPLE MAJORITY OF ALL DEPUTIES. A SIMPLE MAJORITY OF ALL DEPUTIES IS ALSO SUFFICIENT TO OVERTURN A VETO BY THE PRESIDENT OF THE REPUBLIC.

¶9. WITH RESPECT TO THE CONSTITUTIONAL COURT, THE SENATE DOES HAVE RESPONSIBILITIES COMPLETELY DISTINCT FROM THOSE OF THE CHAMBER OF DEPUTIES. THE SENATE MUST APPROVE THE PRESIDENT'S APPOINTEES TO THE CONSTITUTIONAL COURT, AND HAS THE POWER TO STRIP CONSTITUTIONAL COURT JUDGES OF THEIR IMMUNITY FROM PROSECUTION. IT IS ALSO THE SENATE THAT HAS THE POWER TO INDICT THE PRESIDENT FOR TREASON, THE ONLY CRIME FOR WHICH THE PRESIDENT MAY BE CRIMINALLY PROSECUTED.

### THE PRESIDENT OF THE REPUBLIC

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¶10. CHAPTER 3 OF THE CONSTITUTION DEFINES EXECUTIVE BRANCH POWERS. THE PRESIDENT OF THE REPUBLIC (MINIMUM AGE 40) IS THE CHIEF OF STATE, ELECTED AT A JOINT SESSION OF THE TWO HOUSES OF PARLIAMENT FOR A FIVE-YEAR TERM. (THE PRESIDENT MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.) A SINGLE PRESIDENTIAL ELECTION CAN INCLUDE AS MANY AS THREE ROUNDS. THE FIRST ROUND REQUIRES A SIMPLE MAJORITY OF ALL DEPUTIES AND A SIMPLE MAJORITY OF ALL SENATORS. IN THE SECOND ROUND, A SIMPLE MAJORITY OF DEPUTIES PRESENT AND OF SENATORS PRESENT IS SUFFICIENT. IN THE THIRD ROUND, A SIMPLE MAJORITY OF ALL DEPUTIES AND SENATORS, TAKEN AS A WHOLE, IS SUFFICIENT. DESPITE ELECTION BY PARLIAMENT, HOWEVER, THE PRESIDENT IS NOT RESPONSIBLE TO PARLIAMENT FOR THE EXERCISE OF HIS OFFICE.

¶11. THE PRESIDENT'S EXCLUSIVE POWERS ARE AS FOLLOWS:

-- APPOINTS, DISMISSES, AND ACCEPTS THE RESIGNATION OF THE PRIME MINISTER AND OTHER MEMBERS OF THE GOVERNMENT, AND EMPOWERS A GOVERNMENT THAT HAS RESIGNED OR BEEN DISMISSED TO EXERCISE ITS FUNCTIONS TEMPORARILY;

-- APPOINTS JUDGES OF THE CONSTITUTIONAL COURT, THE CHAIRMAN AND DEPUTY CHAIRMAN OF THE SUPREME COURT, THE PRESIDENT AND VICE PRESIDENT OF THE SUPREME INSPECTION OFFICE, AND THE MEMBERS OF THE BANK COUNCIL OF THE CZECH NATIONAL BANK;

-- CONVENES SESSIONS OF THE CHAMBER OF DEPUTIES OR DISSOLVES THE CHAMBER OF DEPUTIES UNDER SPECIFIED CONDITIONS;

-- SIGNS LAWS, OR CAN RETURN TO PARLIAMENT LAWS IT HAS PASSED, WITH THE EXCEPTION OF CONSTITUTIONAL LAWS;

-- ISSUES PARDONS, COMMUTES SENTENCES, ORDERS THAT CRIMINAL PROCEEDINGS NOT BE OPENED OR BE DISCONTINUED, ERASES CONVICTIONS.

¶12. THE PRESIDENT ALSO EXERCISES A NUMBER OF POWERS JOINTLY WITH THE PRIME MINISTER OR OTHER AUTHORIZED MINISTERS, IN THE SENSE THAT PRESIDENTIAL DECISIONS IN THESE AREAS REQUIRE THE SIGNATURE OF THE PRIME MINISTER OR OTHER GOVERNMENT REPRESENTATIVE TO TAKE EFFECT:

-- REPRESENTS THE STATE IN EXTERNAL AFFAIRS, ACCREDITS AND RECALLS HEADS OF DIPLOMATIC MISSIONS, RECEIVES HEADS OF FOREIGN DIPLOMATIC MISSIONS;

-- NEGOTIATES AND RATIFIES INTERNATIONAL AGREEMENTS, OR TRANSFERS SUCH RESPONSIBILITY TO THE GOVERNMENT;

-- CALLS ELECTIONS TO THE CHAMBER OF DEPUTIES AND SENATE;

-- SUPREME COMMAND OF THE ARMED FORCES, APPOINTMENT AND PROMOTION OF GENERALS;

-- CONFERS STATE DECORATIONS;

-- APPOINTS JUDGES;

-- GRANTS AMNESTY.

¶13. THE PRESIDENT IS EMPOWERED TO DISSOLVE THE CHAMBER OF DEPUTIES, IF IT IS CLEARLY DEADLOCKED OR OTHERWISE INCAPABLE OF EXPRESSING ITSELF. SPECIFICALLY, THE PRESIDENT MAY ACT WHEN THE CHAMBER OF DEPUTIES VOTES NO-CONFIDENCE IN A GOVERNMENT WHOSE PRIME MINISTER WAS NAMED BY THE PRESIDENT AT THE SUGGESTION OF THE CHAIRMAN OF THE CHAMBER OF DEPUTIES. (NOTE: AFTER TWO FAILED ATTEMPTS TO WIN CONFIDENCE FOR A PRIME MINISTER OF HIS OWN CHOOSING, THE PRESIDENT IS REQUIRED TO NOMINATE A PRIME MINISTER PROPOSED BY THE CHAIRMAN OF THE CHAMBER OF DEPUTIES.) DISSOLUTION ALSO IS POSSIBLE IF THE

CHAMBER IS ADJOURNED FOR LONGER THAN PERMISSIBLE (120 DAYS), HAS NO QUORUM FOR THREE MONTHS, OR FAILS FOR THREE MONTHS TO EXPRESS ITSELF ON A GOVERNMENT DRAFT LAW ON WHICH THE GOVERNMENT HAS PLACED THE QUESTION OF CONFIDENCE.

¶14. THE PRESIDENT HAS A LIMITED VETO POWER. HE CAN RETURN UNSIGNED A LAW OTHER THAN A CONSTITUTIONAL LAW, PROVIDING THE CHAMBER OF DEPUTIES WITH AN EXPLANATION. THE CHAMBER OF DEPUTIES VOTES AGAIN ON THE LAW, WITH NO AMENDMENTS ALLOWED, AND A SIMPLE MAJORITY OF ALL DEPUTIES IS SUFFICIENT TO OVERTURN THE VETO.

¶15. WHEN THE OFFICE OF PRESIDENT OF THE REPUBLIC IS VACANT OR THE INCUMBENT CANNOT EXERCISE HIS OFFICE, THE CHAIRMAN OF THE CHAMBER OF DEPUTIES EXERCISES MOST OF THE FUNCTIONS IN PARA 11, MOST IMPORTANTLY THOSE HAVING TO DO WITH APPOINTING AND DISMISSING THE GOVERNMENT AND CONVENING OR DISSOLVING THE CHAMBER. THE PRIME MINISTER EXERCISES MOST OF THE FUNCTIONS IN PARA 12, INCLUDING THE CONDUCT OF FOREIGN AFFAIRS AND COMMAND OF THE ARMED FORCES.

#### THE GOVERNMENT

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¶16. THE ARTICLES DEFINING THE POWERS OF THE GOVERNMENT ARE MUCH LESS DETAILED THAN THOSE ON PRESIDENTIAL POWERS. THE GOVERNMENT IS RESPONSIBLE TO THE CHAMBER OF DEPUTIES, AND AUTOMATICALLY OFFERS ITS RESIGNATION AFTER THE CONSTITUENT SESSION OF A NEWLY-ELECTED CHAMBER OF DEPUTIES. THE PRESIDENT OF THE REPUBLIC NAMES THE PRIME MINISTER, AND, AT HIS SUGGESTION, APPOINTS THE OTHER MEMBERS OF THE GOVERNMENT. THE GOVERNMENT MAKES ITS DECISIONS AS A BODY, ON THE BASIS OF A VOTE BY A SIMPLE MAJORITY OF ALL MEMBERS.

#### THE JUDICIARY

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¶17. THE CONSTITUTION GUARANTEES THE INDEPENDENCE OF THE COURTS AND OF INDIVIDUAL JUDGES. IT PROVIDES FOR A CONSTITUTIONAL COURT OF FIFTEEN JUDGES, APPOINTED FOR TEN-YEAR TERMS BY THE PRESIDENT WITH THE CONSENT OF THE SENATE. THE JUDGES ARE BOUND ONLY BY CONSTITUTIONAL LAWS AND INTERNATIONAL AGREEMENTS, AND THEIR MAIN FUNCTION IS TO REVIEW LAWS AND OTHER LEGAL REGULATIONS TO ASCERTAIN WHETHER THEY ARE AT VARIANCE WITH CONSTITUTIONAL LAW OR A BINDING INTERNATIONAL AGREEMENT. THEY ALSO RULE IN CASES WHERE STATE BODIES ARE ACCUSED OF UNCONSTITUTIONAL ACTS.

¶18. UNDER THE CONSTITUTION, THE PRIMARY ROLE OF THE COURTS IS TO PROTECT THE RIGHTS TO CITIZENS. THE REGULAR JUDICIARY CONSISTS OF THE SUPREME COURT, THE SUPREME ADMINISTRATIVE COURT, HIGH, REGIONAL, AND DISTRICT COURTS. THE PRESIDENT OF THE REPUBLIC APPOINTS JUDGES FOR AN UNLIMITED TERM. THE CONSTITUTION DOES NOT SPECIFY IN WHICH CASES JUDGES MAKE THEIR DECISIONS AS A PANEL, IN WHICH CASES JUDGES MAKE THEIR DETERMINATIONS INDIVIDUALLY, AND HOW CITIZENS OTHER THAN JUDGES MAY PARTICIPATE IN COURT DELIBERATIONS. THESE MATTERS ARE LEFT TO DEFINITION BY SUBSEQUENT LAWS. THE CONSTITUTION GUARANTEES EQUALITY BEFORE THE LAW. COURT RULINGS ARE ALWAYS ANNOUNCED IN PUBLIC, AND COURT PROCEEDINGS ARE AS A RULE PUBLIC. EXCEPTIONS CAN BE SPECIFIED BY LAW. THE CONSTITUTION ALSO REFERS TO A PUBLIC PROSECUTOR'S OFFICE, WHICH REPRESENTS THE PUBLIC IN CRIMINAL PROCEEDINGS, BUT DOES NOT DEFINE THE STATUS AND JURISDICTION OF THE OFFICE, LEAVING THAT TO SUBSEQUENT LAWS.

#### OTHER INSTITUTIONS

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¶19. THE CONSTITUTION ALSO PROVIDES FOR A SUPREME INSPECTION OFFICE, DEFINED AS AN INDEPENDENT BODY WHICH PERFORMS INSPECTIONS OF THE MANAGEMENT OF STATE PROPERTY

AND FULFILLMENT OF THE STATE BUDGET. THE PRESIDENT OF THE REPUBLIC, UPON PROPOSAL OF THE CHAMBER OF DEPUTIES, APPOINTS THE PRESIDENT AND VICE PRESIDENT OF THE SUPREME INSPECTION OFFICE. THE CONSTITUTION DOES NOT, HOWEVER, FURTHER ADDRESS THE ORGANIZATION AND STRUCTURE OF THE OFFICE, LEAVING THAT TO SUBSEQUENT LAWS.

¶20. THE CZECH NATIONAL BANK, I.E. THE CENTRAL STATE BANK, RECEIVES SIMILAR TREATMENT. THE CONSTITUTION DEFINES THE PRIMARY PURPOSE OF THE BANK AS THE MAINTENANCE OF A STABLE CURRENCY, AND STATES IT IS POSSIBLE TO INTERVENE IN THE BANK'S ACTIVITIES SOLELY ON THE BASIS OF LAW. THE PRESIDENT APPOINTS THE MEMBERS OF THE BANK COUNCIL. OTHER ASPECTS ARE LEFT TO BE DETERMINED BY SUBSEQUENT LAWS.

#### TERRITORIAL SELF-ADMINISTRATION

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¶21. THE MUNICIPALITY (OBEC) IS THE BASIC UNIT OF TERRITORIAL SELF-ADMINISTRATION, WITH LANDS (ZEME) OR REGIONS (KRAJE) AS HIGHER UNITS. THE CONSTITUTION ITSELF DOES NOT LAY OUT THE SIZE AND BOUNDARIES OF THESE UNITS. (NOTE: USE OF THE TERM "LAND" IS A SMALL CONCESSION TO MORAVIAN AND SILESIAN DESIRES FOR SOME RECOGNITION OF THE DISTINCT HISTORICAL STATUS OF THEIR AREAS. IT IS CLEAR, HOWEVER, THAT, FOR THE DRAFTERS OF THE CONSTITUTION, THE "LANDS" TO ALL INTENTS AND PURPOSES WILL BE ANALOGOUS TO THE ALREADY EXISTING "REGIONS", RATHER THAN TO LARGER HISTORIC AREAS SUCH AS MORAVIA OR SILESIA.) THE UNITS OF TERRITORIAL SELF-ADMINISTRATION ELECT THEIR OWN BOARDS OF REPRESENTATIVES FOR FOUR-YEAR TERMS, AND CAN OWN PROPERTY AND "ENGAGE IN MANAGEMENT ACCORDING TO THEIR OWN BUDGETS." THE CONSTITUTION OTHERWISE LEAVES THE EXACT AUTHORITY OF THE BOARDS OF REPRESENTATIVES TO BE DEFINED BY SUBSEQUENT LAWS.

#### TEMPORARY PROVISIONS AND ENTRY INTO FORCE

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¶22. THE CONSTITUTION TAKES EFFECT JANUARY 1, 1993. ON THAT DATE, THE CZECH NATIONAL COUNCIL, THE CURRENT REPUBLIC PARLIAMENT, WILL BECOME THE CHAMBER OF DEPUTIES, WITH ITS TERM TO END ON JUNE 6, 1996. THE CONSTITUTION STATES THAT A PROVISIONAL SENATE WILL BE CONSTITUTED TO COVER THE PERIOD UNTIL REGULAR SENATE ELECTIONS ARE HELD. UNTIL A PROVISIONAL SENATE IS IN PLACE, THE CHAMBER OF DEPUTIES WILL PERFORM THE FUNCTIONS OF THE SENATE. (NOTE: A LAW TRANSFORMING THE CZECH DEPUTIES FROM THE FEDERAL ASSEMBLY INTO A PROVISIONAL SENATE FAILED TO PASS THE CZECH NATIONAL COUNCIL. A SOMEWHAT MODIFIED VERSION OF THE LAW WILL COME UP AGAIN, BUT PERHAPS NOT UNTIL MID-JANUARY.)

#### EMBASSY COMMENT

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¶23. IN ITS FUNDAMENTAL PROVISIONS, THE CZECH CONSTITUTION CLEARLY REFLECTS THE "CIVIC PRINCIPLE" CENTRAL TO THE IDEOLOGY OF THE CZECH GOVERNING COALITION PARTIES, ESP. THE CIVIC DEMOCRATIC PARTY (ODS) AND THE CIVIC DEMOCRATIC ALLIANCE (ODA). THE RIGHTS SPECIFIED IN THE CONSTITUTION ARE THE RIGHTS OF CITIZENS OF A POLITICAL DEMOCRACY AND THE RIGHTS THOSE CITIZENS DERIVE FROM THEIR BASIC HUMANITY. THE GOVERNING COALITION SUCCESSFULLY RESISTED OPPOSITION EFFORTS TO INCLUDE THE CZECHOSLOVAK CHARTER OF BASIC HUMAN RIGHTS AND FREEDOMS DIRECTLY IN THE CONSTITUTION, PUTTING THE CHARTER IMPLICITLY ON A SOMEWHAT LOWER LEVEL AS PART OF THE CR'S "CONSTITUTIONAL ORDER." THE CHARTER INCLUDES SOCIAL AND ECONOMIC GUARANTEES, E.G. TO EMPLOYMENT AND PENSIONS, VERY DIFFERENT FROM THE BASIC CIVIL AND HUMAN RIGHTS THE GOVERNING PARTIES FOCUS ON. IT IS ALSO SIGNIFICANT THAT THE CONSTITUTION GUARANTEES THE EQUALITY OF CITIZENS AS INDIVIDUALS, WITHOUT SPECIFIC REFERENCE TO RIGHTS OF GROUPS SUCH AS NATIONAL OR ETHNIC MINORITIES. THE INDIVIDUAL RIGHTS THAT THE CONSTITUTION DOES GUARANTEE



ARE GUARANTEED UNEQUIVOCALLY, WITH NO ROOM FOR EXCEPTION, AND PROTECTED BY THE CONSTITUTIONAL COURT AND REGULAR JUDICIARY. THE CITIZEN HAS AMPLE RECOURSE AGAINST VIOLATIONS OF HIS RIGHTS BY THE INSTRUMENTS OF STATE POWER.

¶24. THE CZECH CONSTITUTION IS FULLY COMPARABLE TO THE CONSTITUTIONS OF CONTINENTAL WEST EUROPEAN PARLIAMENTARY DEMOCRACIES, AND THE INFLUENCE OF THE 1920 CONSTITUTION OF DEMOCRATIC CZECHOSLOVAKIA IS EVIDENT. THE POWERS OF THE PRESIDENT MAY BE SLIGHTLY GREATER THAN THE CURRENT WEST EUROPEAN AVERAGE, REFLECTING BOTH THE TRADITION OF FIRST REPUBLIC CZECHOSLOVAKIA AND THE EFFORTS OF VACLAV HAVEL TO ENSURE THAT THE OFFICE HE HOPES TO HOLD WILL BE GENUINELY SUBSTANTIVE. (CZECH PRIME MINISTER KLAUS, A STRONG ADVOCATE OF THE PARTY-BASED PARLIAMENTARY SYSTEM OF GOVERNMENT, WOULD HAVE PREFERRED A SOMEWHAT WEAKER PRESIDENCY, BUT HAS LITTLE REASON TO BE DISSATISFIED.)

¶25. THE ONLY VISIBLE CONCESSION TO THE DEMANDS OF THE MORAVIAN AND SILESIAN AUTONOMISTS WAS THE OPPORTUNITY TO USE THE TERM "LAND" (ZEME) FOR THE HIGHER UNITS OF TERRITORIAL SELF-ADMINISTRATION, AND THE RIGHT FOR THE BOARDS OF REPRESENTATIVES OF THOSE HIGHER UNITS TO PROPOSE LEGISLATION TO THE CHAMBER OF DEPUTIES. THIS FALLS FAR SHORT OF WHAT THE MORAVIANS HOPED FOR. CONCESSIONS TO THE GREENS WERE SIMILARLY MODEST. ARTICLE 7 ONLY REQUIRES THE STATE TO "SEE TO THE CAUTIOUS USE OF NATURAL RESOURCES AND TO THE PROTECTION OF NATURAL WEALTH." THE CONSTITUTION STATES THAT A SUBSEQUENT CONSTITUTIONAL LAW CAN ESTABLISH WHEN THE PEOPLE MAY EXERCISE STATE POWER DIRECTLY, I.E. BY MEANS OF A REFERENDUM, BUT THIS DOES NOT GO NEARLY AS FAR AS THE DEMOCRATIC LEFT OPPOSITION HAD HOPED.

¶26. IN SUM, THE CZECH GOVERNING PARTIES HAVE REASON TO BE QUITE SATISFIED WITH THE CONSTITUTION. THE SAME SHOULD BE TRUE FOR THE WESTERN DEMOCRACIES. THE CONSTITUTION APPEARS TO US TO INCLUDE ALL THE NECESSARY GUARANTEES OF POLITICAL DEMOCRACY AND OF CIVIL AND HUMAN RIGHTS. ALSO, WHILE THE CONSTITUTION DOES NOT REFER SPECIFICALLY TO ECONOMIC MATTERS, IT IS CLEARLY THE PRODUCT OF PEOPLE WHO ARE DEVOTED TO FREE-MARKET PRINCIPLES AND DO NOT WANT TO CONDITION PEOPLE'S ECONOMIC BEHAVIOR AND LIMIT OPPORTUNITIES BY CONSTITUTIONAL MEANS.

BASORA